

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Flora S. Messer,

Plaintiff,

v.

Jo Ann B. Barnhart,
Commissioner of Social Security,

Defendant.

C/A No. 2:06-0008-GRA-RSC

ORDER

This matter is before the Court for a review of the magistrate's Report and Recommendation made in accordance with 28 U.S.C. § 636 and Local Rule 73.02(B)(2)(a), D.S.C., and filed June 30, 2006. Plaintiff brought this action pursuant to 42 U.S.C. § 405(g) and 1383(c)(3) to obtain judicial review of a final decision of the Commissioner of Social Security denying her claims for Supplemental Security Income ("SSI") and Disability Insurance Benefits ("DIB"). The magistrate recommends that the Commissioner's decision be reversed under sentence four of 42 U.S.C. §§ 405(g) and 1383(c)(3), and the case be remanded to the Commissioner to properly consider which of the plaintiff's impairments are severe at Step 2 of the sequential evaluation process and continue the sequential evaluation process to resolution.

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions

of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). There have been no objections to the Report and Recommendation.

After a review of the magistrate's Report and Recommendation, this Court finds that the report is based upon the proper law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that the decision of the Commissioner be REVERSED under sentence four of 42 U.S.C. §§ 405(g) and 1383(c) , and the cause be REMANDED to the Commissioner for further proceedings as discussed above.

IT IS FURTHER ORDERED that the Clerk of Court should enter a separate judgment pursuant to Fed. R. Civ. P. 58.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

Anderson, South Carolina

July 28, 2006